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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,223

04/04/2005

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42603-0400

5261

21611 7590 04/14/2009  
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EXAMINER

PLUMMER, ELIZABETH A

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

04/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/530,223	<b>Applicant(s)</b> ROBINSON, GERARD FRANCIS	
	<b>Examiner</b> ELIZABETH A. PLUMMER	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14 and 16-22 is/are rejected.
- 7) ☒ Claim(s) 8 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's amendments and arguments received have been entered and considered. Claim 9 has been canceled. Claim 22 has been added. An examination of pending claims 1-8 and 10-22 is herein presented.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 10-14, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sabac et al. (US Patent 6,912,817) in view of Dokan (US Patent 4,601,149).

a. Regarding claims 1, 5 and 12, Sabac et al. discloses a sealing system comprising at least two parts being a longitudinal strip profile (200) and a sealing material (210), both adapted in combination to maintain a sealed joint between relatively vertical and horizontal surfaces (Fig. 2), the strip profile (200) comprising a first upper limb (222) having an upper limb upper boundary and an upper limb lower boundary between which there extends an upper limb inner face (left side of limb in Fig. 2,3,4) and an upper limb outer face, and from which upper limb inner face or upper limb boundaries there extends at least one second outer limb (202) having an outer limb inner boundary attached to the upper limb (Fig. 2,3,4) and an outer limb outer boundary between which outer limb

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boundaries there extends an outer limb upper face and an outer limb lower face (top and bottom faces of 202), characterized in that the longitudinal strip profile (200) is semi-flexible (column 3, lines 25-28) and the at least one second outer limb is flexible and further characterized in that there extends from the outer limb lower face at least a third flexible inner limb (206) (Fig. 2,3,4) adapted to sealing engage an uncured sealing material and to said the full or substantial isolation of the uncured sealing material from the upper limb inner face or outer limb lower face (Fig 2,3,4). Sabac et al. does not disclose that the third inner limb engages and aids in the isolation of the uncured sealing material by the provision of one or more ribs which extend into the uncured sealing material, the ribs being located on the inner limb lower face between the inner limb inner boundary and the inner limb out boundary. However, it is known in the art that a limb can be provided with one or more ribs extending into uncured sealing material. For example, Dokan teaches a sealing system (Fig. 3,4) comprising at least two parts being a strip profile (116,216) and a sealing material (110,210) wherein the strip profile can have a limb with one or more ribs (Fig. 3,4) for engaging and anchoring the sealing strip in an installed position. Sabac et al. teaches that the sealing material is along the inner limb lower ace between the inner limb inner boundary and the inner limb outer boundary, and it would have been obvious to modify Sabac et al. to add ribs to the interacting surface, such as taught by Dokan, in order to better anchor the sealing strip.

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- b. Regarding claim 2, the flexibility in the strip profile is achieved through adjustment of the sectional wall thickness (column 3, lines 19-38).
- c. Regarding claim 3, the inner limb (206) forms and anchors and directly engages sealing material (210) with the horizontal surface, in substantial isolation from the remainder of the strip profile (200).
- d. Regarding claims 4 and 11, the additional inner limbs (222) extend from the upper limb inner face and filler material (220) extends from the upper limb lower boundary.
- e. Regarding claims 6 and 13, Dokan further teaches the strip can be shaped with the outer limb upper face being adapted to throw off water over the complementary sealing material (Fig. 1,2,3,4; abstract).
- f. Regarding claim 7, the strip profile (200) has a flexible lip (adjacent 230, 226) along the uppermost boundary of the first upper limb and the outermost boundary of the second outer limb capable of engaging irregular vertical and horizontal surface respectively.
- g. Regarding claims 10 and 17, Dokan further teaches that the ribs can have substantially bulbous heads which mechanically grip and are imbedded into the sealing material (Fig. 3,4).
- h. Regarding claim 14, the strip profile has a flexible lip (230) along the uppermost boundary of the upper limb and the outermost boundary of the second outer limb (226) to engage irregular vertical and horizontal surfaces respectively (Fig, 3).

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i. Regarding claim 16, Sabac et al. discloses a sealing system comprising at least two parts being a longitudinal strip profile (200) and a sealing material (210), both adapted in combination to maintain a sealed joint between relatively vertical and horizontal surfaces (Fig. 2), the strip profile (200) comprising a first upper limb (222) having an upper limb upper boundary and an upper limb lower boundary between which there extends an upper limb inner face (left side of limb in Fig. 2,3,4) and an upper limb outer face, and from which upper limb inner face or upper limb boundaries there extends at least one second outer limb (202) having an outer limb inner boundary attached to the upper limb (Fig. 2,3,4) and an outer limb outer boundary between which outer limb boundaries there extends an outer limb upper face and an outer limb lower face (top and bottom faces of 202), characterized in that the longitudinal strip profile (200) is semi-flexible (column 3, lines 25-28) and the at least one second outer limb is flexible and further characterized in that there extends from the outer limb lower face at least a third flexible inner limb (206) (Fig. 2,3,4) adapted to sealing engage an uncured sealing material and to said the full or substantial isolation of the uncured sealing material from the upper limb inner face or outer limb lower face (Fig 2,3,4) and the strip profile has a flexible lip (230) along the uppermost boundary of the upper limb and the outermost boundary of the second outer limb (226) to engage irregular vertical and horizontal surfaces respectively (Fig, 3). Sabac et al. does not disclose that the third inner limb engages and aids in the isolation of the uncured sealing material by the provision of one or more ribs which extend into

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the uncured sealing material, the ribs being located on the inner limb lower face between the inner limb inner boundary and the inner limb out boundary.

However, it is known in the art that a limb can be provided with one or more ribs extending into uncured sealing material. For example, Dokan teaches a sealing system (Fig. 3,4) comprising at least two parts being a strip profile (116,216) and a sealing material (110,210) wherein the strip profile can have a limb with one or more ribs (Fig. 3,4) for engaging and anchoring the sealing strip in an installed position. Sabac et al. teaches that the sealing material is along the inner limb lower face between the inner limb inner boundary and the inner limb outer boundary, and it would have been obvious to modify Sabac et al. to add ribs to the interacting surface, such as taught by Dokan, in order to better anchor the sealing strip.

3. Claims 1, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schluter (US Patent 4,829,731) in view of Dokan (US Patent 4,601,149).

a. Regarding claims 1, 18 and 20, Schluter discloses a sealing system (Fig. 2) comprising of at least two parts being a longitudinal strip profile (1) and a sealing material (17), both adapted in combination to maintain a sealed joint between relatively vertical and horizontal surfaces (Fig. 2), the strip profile comprising a first upper limb (11) having an upper limb upper boundary and an upper limb lower boundary between which there extends an upper limb inner face and an upper limb outer face (Fig. 2), and from which upper limb inner face there extends at least one second outer limb (12,13) having an outer limb inner

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boundary attached to the upper limb (11) and an outer limb outer boundary between which outer limb boundaries there extends an outer limb upper face and an outer limb lower face characterized in that the longitudinal strip profile is semi-flexible (ie. has flexible parts) and the at least one second outer limb is flexible (13) and further characterized in that there extends from the outer limb lower face at least a third flexible inner limb (14) adapted to sealingly engage an uncured sealing material (17) and to aid the full or substantial isolation of the uncured sealing material from the upper limb inner face and outer limb lower face, and the third flexible inner limb is connected to the first upper limb by a first co-extruding flexible material (15). Schluter does not disclose that the third inner limb engages and aids in the isolation of the uncured sealing material by the provision of one or more ribs which extend into the uncured sealing material, the ribs being located on the inner limb lower face between the inner limb inner boundary and the inner limb out boundary. However, it is known in the art that a limb can be provided with one or more ribs extending into uncured sealing material. For example, Dokan teaches a sealing system (Fig. 3,4) comprising at least two parts being a strip profile (116,216) and a sealing material (110,210) wherein the strip profile can have a limb with one or more ribs (Fig. 3,4) for engaging and anchoring the sealing strip in an installed position. Schuter teaches that the sealing material is along the inner limb lower ace between the inner limb inner boundary and the inner limb outer boundary, and it would have been obvious to



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modify Schluter to add ribs to the interacting surface, such as taught by Dokan, in order to better anchor the sealing strip.

b. Regarding claim 19, the third flexible inner limb is inherently connected to the second outer limb by a second co-extruding flexible material, as the inner limb and outer limb are continuous and an extruded plastic (column 3, lines 5-7).

d. Regarding claim 21, a fourth limb is connected to the first upper limb forming a chamber (Fig. 2) wherein the third flexible inner limb can engage the fourth limb at the chamber (via 15).

e. Regarding claim 22, the inner limb directly engages the sealing material with the horizontal surface, in substantial isolation from the remainder of the strip profile (Fig. 2).

#### ***Allowable Subject Matter***

4. Claims 8 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-8 and 10-22 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. PLUMMER whose telephone number is

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(571)272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633

/E. A. P./  
Examiner, Art Unit 3635